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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,948	03/30/2001	Douglas E. Duschatko	M-8353 US	3891
33031	7590	08/23/2004	EXAMINER TON, DAVID	
CAMPBELL STEPHENSON ASCOLESE, LLP 4807 SPICEWOOD SPRINGS RD. BLDG. 4, SUITE 201 AUSTIN, TX 78759			ART UNIT 2133	PAPER NUMBER

DATE MAILED: 08/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/821,948

Applicant(s)

DUSCHATKO ET AL.

Examiner

David Ton

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on Application filed 03/20/2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-23 and 37-40 is/are allowed.
- 6) ☒ Claim(s) 24, 31 and 32 is/are rejected.
- 7) ☒ Claim(s) 25-30 and 33-36 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>5</u> .   | 6) <input type="checkbox"/> Other: _____                                    |

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1. Applicants are requested to update the Cross Reference To Related Applications section on page 1 of the Specification.
2. The abstract is objected because it is over 150 words. A new abstract is required. The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. Correction is required. See MPEP § 608.01(b).
3. Claims 1-40 are presented for examination.

***Claim Rejections - 35 USC ' 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claim 24 is rejected under 35 U.S.C. § 102(e) as being anticipated by Theodoras, II et al. (Theodoras) patent no. 6,684,350.

6. As to claim 24, Theodoras teaches the invention as claimed, including an OC-192 input/output card [see Fig. 6] comprising:

Four OC-48 [col. 9 lines 14-28] processors; and

An OC-192 front-end application-specific integrated (ASIC) [col. 9 lines 30-48] connected to said four OC-48 processors, said OC-192 front-end ASIC including a transmitter [transmit module 620] having means for interleaving four OC-48 signals to create an OC-192 signal, and means for encoding forward error correction (FEC) codes in each of the four OC-48 signals [col. 9 lines 14-28], a receiver [receive module 605] having means for de-interleaving an OC-192 signal to create four OC-48 signals, and means for decoding FEC codes in the OC-192 signal [col. 9 lines 14-28], and means [test circuitry, col. 9 line 64 col. 10 line 7] for verifying correct operation of said encoding means and said decoding means.

### ***Claim Rejections - 35 USC ' 112***

7. Claim 31 is rejected under 35 U.S.C. ' 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention:

At line 1-2 of claim 31, the term "said programming means" lacks antecedent basis. The Examiner think there might be a dependency error. Please check and correct.

### ***Claim Rejections - 35 USC ' 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 32 is rejected under 35 U.S.C. § 103 (a) as being unpatentable over Theodoras, II et al. (Theodoras) patent no. 6,684,350.

10. As to claim 32, Theodoras does not teach the encoding/decoding means using triple-error BCH code.

Official Notice is taken that the encoding/decoding means using triple-error BCH code is well known in the art.

It would have been obvious to one of ordinary skill in the Data Processing art at the time of the invention was made to modify the teachings of Theodoras by applying a well known encoding/decoding means using triple-error BCH code. This modification would have been obvious and a person having ordinary skill in the art would have been motivated to do so because it would enhance the forward error correction.

***Allowable Subject Matter***

11. Claims 1-23 and 37-40 are allowed.

12. Claims 25-30 and 33-36 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

13. The prior art of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David Ton, whose telephone number is (703) 306-3043. The examiner can normally be reached on Monday through Thursday from 6:30 AM to 4:00 PM and alternate Friday from 6:30 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady, can be reached at (703) 305-9595. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "David Ton". The signature is fluid and cursive, with the first name "David" and the last name "Ton" clearly distinguishable.

DT

August 20, 2004

**DAVIDTON  
PRIMARY EXAMINER**